

PT 97-45

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

OUR SAVIOR LUTHERAN CHURCH)		
Applicant)		
)	Docket #	95-89-29
v.)	PIN #	04-19-07-152-012
)		
THE DEPARTMENT OF REVENUE)		
OF THE STATE OF ILLINOIS)		

RECOMMENDATION FOR DISPOSITION

Synopsis:

Our Savior Lutheran Church (hereinafter referred to as the "Applicant") filed an Application for Property Tax Exemption To Board of Review, concerning Stephenson County Parcel Index No. 04-19-07-152-012, for the 1995 assessment year.

By letters dated May 21, 1997, and July 11, 1997, the pastor of the applicant submitted certain additional information.

The issues in this matter include, first, whether the applicant was the owner of this parcel during the 1995 assessment year; secondly, whether the applicant is a religious organization; and lastly, whether the applicant used this parcel for religious or exempt purposes during the 1995 assessment year. Following a review of the documents originally submitted in this matter, and the later filed aerial photographs, affidavits, and letters, it is determined that the applicant owned this parcel during the 1995 assessment year. It is further determined that the applicant is a religious organization. Finally, it is determined that the applicant used this parcel for religious and exempt purposes

during the 1995 assessment year. This parcel therefore qualifies for exemption from real estate taxation for the 1995 assessment year.

Findings of Fact:

1. The parcel here in issue and other land, including the parcel on which the applicant's church building is located, was acquired by the applicant by a warranty deed dated July 8, 1971.

2. The applicant is a religious corporation, and a member of the Wisconsin Evangelical Synod. The applicant conducts worship services on Sunday mornings at 9:30 A.M. and Sunday School at 10:45 A.M.

3. During the 1995 assessment year, the applicant used this parcel for overflow parking, particularly for weddings and funerals.

4. This parcel was also used during 1995 for recreational activities during Vacation Bible School and for church picnics.

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 ILCS 200/15-40 provides in part as follows:

All property used exclusively for religious purposes, or used exclusively for school and religious purposes . . . and not leased or otherwise used with a view to profit, is exempt

35 ILCS 200/15-125 provides in part as follows:

Parking areas, not leased or used for profit, when used as a part of a use for which an exemption is provided by this Code and owned by any . . . religious . . . institution which meets the qualifications for exemption, are exempt.

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141

(1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

Based on the foregoing findings of fact, I conclude that the applicant owned this parcel during the 1995 assessment year. I also conclude that the applicant is a religious institution. Finally, I conclude that the applicant used this parcel for religious and exempt purposes during the 1995 assessment year.

I therefore recommend that Stephenson County Parcel Index No. 04-19-07-152-012 be exempt from real estate taxation for the 1995 assessment year. Respectfully Submitted,

George H. Nafziger
Administrative Law Judge
July 21, 1997